

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
(PHILADELPHIA)**

IN RE:

Russell Pinnock, Sr.
Debtor

CHAPTER 13

CASE NO.: 18-16423-amc

HEARING DATE: May 2, 2024

TIME: 11:00am

LOCATION: Courtroom #4

MOTION OF BANK OF AMERICA, N.A. FOR RELIEF FROM THE AUTOMATIC STAY PROVISIONS OF 11 U.S.C. § 362(a) TO PERMIT MOVANT TO COMMENCE OR CONTINUE FORECLOSURE PROCEEDINGS ON 551 ALCOTT STREET, PHILADELPHIA, PA 19120

AND NOW COMES, Bank of America, N.A. (“Movant”), by and through its attorneys, Hill Wallack LLP, and respectfully represents as follows:

1. This Motion (the “Motion”) is filed by Movant for relief from the automatic stay provisions of 11 U.S.C. §362(a) to permit Movant to commence or continue its foreclosure on real property located at 551 Alcott Street, Philadelphia, PA 19120 (the “Mortgaged Premises”).

2. On or about April 20, 2005, Russell A. Pinnock Sr (“Debtor”) executed and delivered to Countrywide Home Loans, Inc. a Promissory Note (“Promissory Note”) in the principal amount of \$94,254.00. A true and correct copy of the Promissory Note is attached hereto and made a part hereof as Exhibit “A.”

3. To secure the obligations under the Promissory Note, Debtor granted to Mortgage Electronic Registration Systems, Inc., as nominee for Countrywide Home Loans, Inc., a valid, enforceable, and recorded first lien and mortgage (the “Mortgage”) on the Mortgaged Premises, all of the terms of which are incorporated herein by reference as if fully set forth at length, which Mortgage was thereafter recorded in the City of Philadelphia Recorder of Deeds Office on May 3, 2005 Instrument Number 51167886. A true and correct copy of the Mortgage is attached hereto and made a part hereof as Exhibit “B.”

4. Movant is the current mortgagee by virtue of an Assignment of Mortgage. A true and correct copy of the full recorded Assignment of Mortgage Chain is attached hereto and made apart hereof as Exhibit "C."

5. Debtor has entered into multiple loan modification agreements that have been recorded with the county. True and correct copies of the loan modification agreements are attached hereto and made a part hereof as Exhibit "D."

6. On September 27, 2018, Debtor filed a petition for relief under Chapter 13 of the United States Bankruptcy Code.

7. The Debtor listed the current value of the Mortgaged Premises in her Schedule A/B in the amount \$95,000.00.

8. As of the petition date, Movant is the holder of a secured claim in the amount of \$105,574.52 with pre-petition arrears due in the amount of \$17,625.47 together with additional legal fees and costs and taxes due and payable on the Mortgaged Premises per the Proof of Claim 4-1 filed December 17, 2018.

9. The current monthly payment on the Mortgage is \$800.76 per the Notice of Payment Change filed November 8, 2023.

10. Debtor is currently in arrears post-petition for her failure to pay the post-petition payments due January 1, 2023 through April 1, 2024 in the amount of \$11,159.23 (\$723.29 x 11 months and \$800.76 x 5 months) minus \$143.70 in suspense, for a total of \$11,816.29. A copy of the post-petition history is attached hereto and made a part hereof as Exhibit "E."

11. Consequently, Movant is entitled to relief from the automatic stay pursuant to 11 U.S.C. § 362(d) as the Debtor has defaulted on post-petition payments.

WHEREFORE, Bank of America, N.A. respectfully requests that this Court enter an Order granting relief from the automatic stay provisions of 11 U.S.C. § 362(a) to allow Movant to proceed in its foreclosure of the Mortgaged Premises, to name the Debtor in the foreclosure suit solely for the purpose of foreclosing their interests in the Mortgaged Premises, and to allow

Movant, or any other purchaser at the Sheriff's Sale, to take any legal action necessary to gain possession of the Mortgaged Premises.

Respectfully submitted,

By: /s/ Angela C. Pattison

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